

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 DODE-00 NSAE-00 ICA-11
TRSE-00 SOE-02 DOE-15 CIAE-00 COME-00 /049 W
-----100587 282345Z /73
P 282304Z APR 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC PRIORITY 0860

C O N F I D E N T I A L SECTION 01 OF 03 PARIS 13973

USOECD

EXCON

E.O. 11652: XGDS1
TAGS: ESTC, COCOM, US, UR, FR
SUBJECT: U.S. STRETCH FORM PRESS TO THE USSR - IL 1081
(CYRIL BATH CASE)

REF: (A) COCOM DOC (78) 108, (B) PARIS 12712

1. USDEL UNDERSTANDS THAT LAST TWO LINES OF PARA 2, REF B WERE GARBLED IN TRANSMISSION. THEY SHOULD HAVE READ AS FOLLOWS: "IN RESERVING ITS POSITION ON THE CASE, THE FRENCH DEL ASSOCIATED ITSELF WITH THE U.K. QUESTIONS. IN OFF-THE-RECORD SIDE REMARK, UK DELEGATE ASKED WHY THE USG OR THE U.S. FIRM HAD NOT ASKED AVTOPROIMPORT FOR ADDITIONAL END-USE INFORMATION."

2. AT APRIL 25 COCOM MEETING BELGIAN DEL NOTED THAT WHEN THE U.S. DELEGATION HAD SUBMITTED ITS CASE IT HAD NOTED THAT IT WOULD MAINTAIN ITS REQUEST ONLY IF FRANCE WAS EXPORTING IDENTICAL EQUIPMENT. HE ASKED WHAT WAS THE POSITION OF THE U.S. AUTHORITIES IN LIGHT OF THE INFORMATION FURNISHED BY THE FRENCH DELEGATION. USDEL RESPONDED THAT THE U.S. RESPONSE TO THIS QUESTION WAS CONFIDENTIAL

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ALREADY PROVIDED IN PARAS 9 AND 13 OF COCOM DOC (78) 108.3. HE NOTED IN PARA 9 USDEL HAD STATED THAT THE AMERICAN AUTHORITIES BELIEVE THAT THE EQUIPMENT WHICH THE FRENCH FIRM IS EXPORTING IS EMBARGOED UNDER THE TERMS OF ARTICLE IL 1081 (A).

3. BELGIAN DEL STATED THAT THE AMERICAN AUTHORITIES

APPEAR TO FEEL THAT FRANCE IS EXPORTING EQUIPMENT THAT IT SHOULD NOT BE WITHOUT THE AGREEMENT OF THE COMMITTEE. HE SAID THAT, IF THIS IS THE CASE, THE AMERICAN AUTHORITIES SHOULD HAVE HANDLED THIS MATTER EITHER IN THE SUB-COMMITTEE ON EXPORT CONTROLS OR IN THE COMMITTEE AS A PROBLEM OF INTERPRETATION. HE CONCLUDED THAT THE METHOD EMPLOYED BY THE AMERICAN AUTHORITIES WAS NOT VERY ORTHODOX AND THIS EXPLAINED THE DIFFICULTIES THAT THE BELGIAN AUTHORITIES WERE HAVING IN ARRIVING AT A FINAL POSITION ON THE QUESTION.

4. USDEL RECALLED THAT PARA 1(C) OF COCOM REG (77) 1 STIPULATES THAT THE COMMITTEE, IN ORDER TO STUDY EXCEPTION REQUEST, MUST TAKE INTO CONSIDERATION THE SHORTAGES IN THE PROSCRIBED COUNTRIES WITH REGARD TO THE EQUIPMENT IN QUESTION. THIS IS A QUESTION, HE SAID, ESSENTIAL FOR THE EXAMINATION OF EXCEPTION REQUESTS AS WELL AS FOR DEFINITIONAL STUDIES AND THE APPLICATION OF THE EMBARGO. USDEL WENT ON TO SAY THAT THE COMMITTEE MUST ESTABLISH WHETHER THERE IS A SHORTAGE OR NOT. IN THE CASE UNDER STUDY, IT APPEARS THAT THE SOVIET UNION HAS A SOURCE OF SUPPLY WHICH WOULD OVERCOME ITS SHORTAGES AND THIS IS WHAT THE COMMITTEE MUST VERIFY.

5. NOTING THAT HIS AUTHORITIES DID NOT AGREE WITH THE
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U.S., THE BELGIAN DEL STATED THAT THE FACT THAT A MEMBER NATION HAD SUPPLIED SEVERAL MACHINES DID NOT MEAN THAT THERE WAS NO LONGER A SHORTAGE IN THE RECEIVING COUNTRY. HE ADDED THE BELGIAN AUTHORITIES FELT THAT SUBMITTING AN INTERPRETATIONAL QUESTION TO THE COMMITTEE WOULD HAVE BEEN A MORE ELEGANT METHOD THAN PUTTING INTO QUESTION A MEMBER COUNTRY.

6. USDEL RESPONDED THAT THE U.S. COMPANY IN QUESTION -- THE WORLD'S LARGEST MANUFACTURER IN THIS FIELD-- HAD NOT SOLD A STRETCH-FORMING PRESS OF THIS TYPE SINCE 1968. THE AERONAUTICAL INDUSTRY DOES NOT USE A LARGE QUANTITY OF THIS TYPE OF PRESS AND, IN THE VIEW OF THE

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INFO OCT-01 EUR-12 ISO-00 DODE-00 NSAE-00 ICA-11
TRSE-00 SOE-02 DOE-15 CIAE-00 COME-00 /049 W
-----100671 282348Z /73
P 282304Z APR 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC PRIORITY 0861

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AMERICAN AUTHORITIES, THE SOVIET ORDER WOULD BE SUFFICIENT TO COVER THE NEEDS OF ITS AERONAUTICAL INDUSTRY FOR SEVERAL YEARS. HE CONCLUDED THAT THIS IS NOT A FIELD IN WHICH A SMALL NUMBER OF MACHINES CAN BE CONSIDERED INSIGNIFICANT -- A VERY SMALL NUMBER OF MACHINES CAN OVERCOME A SHORTAGE.

7. ALL MEMBERS STILL ON RESERVE HAVE BEEN ASKED TO STATE THEIR POSITIONS AT THE MAY 2 MEETING.

8. THE BRITISH DELEGATION TO THE SPECIAL APRIL 25 COCOM MEETING INDICATED, IN RESPONSE TO A USDEL INQUIRY, THAT THE BRITISH GOVERNMENT WOULD PROBABLY ULTIMATELY BE ABLE TO APPROVE THE U.S. EXCEPTION REQUEST NOTING THAT IT HAD PREVIOUSLY APPROVED EXPORTS OF STRETCH-FORM PRESSES BECAUSE THE TECHNOLOGY IS OLD. USDEL PRESUMES HE WAS REFERRING TO FOLLOWING CASES: U.S. STRETCH PRESS TO ROMANIA - COCOM DOC (73) 293 - OC DOC. 4009, SUPPL 1; U.S. STRETCH WRAP FORMING MACHINE TO ROMANIA - COCOM DOC (72) 1459 - OC DOC. 4268; UK SALE OF LICENSE TO MANUFACTURE AIRCRAFT AND ENGINES IN ROMANIA - COCOM DOC (70) 277.

9. ON APRIL 27, EWT DIRECTOR BILL ROOT AND USDEL
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CALLED ON NEW FRENCH COCOM DEL DE COMBLES AND FRENCH TECHNICAL ADVISOR LEGER TO DISCUSS CYRIL BATH CASE. ROOT REVIEWED THE HISTORY OF CASE NOTING THAT IN NOV. 1976 CYRIL BATH HAD SUBMITTED QUOTATIONS ON NINE PRESSES IN RESPONSE TO A REQUEST FROM AVTOPROIMPORT. ON JANUARY 20 CYRIL BATH RECEIVED ORDER FOR ONE STRETCH-

FORMING MACHINE AND WAS INFORMED BY AVTOPROIMPORT THAT THE MAJOR PART OF THE ORDER FOR STRETCH-FORMING MACHINES HAD BEEN PLACED WITH LOIRE-ACB OF FRANCE. AVTOPROIMPORT INFORMED CYRIL BATH THAT THE SOVIET UNION ALREADY HAD STRETCH-FORMING PRESSES FROM ACB IN OPERATION. IN A LETTER TO A PROSPECTIVE CUSTOMER LOIRE-ACB HAD INDICA-

TED THAT IT HAD AN ORDER FROM AVTOPROIMPORT FOR STRETCH-FORMING PRESSES FOR SHEETS INTENDED FOR USE IN SOVIET AERONAUTIC INDUSTRY. LATER THE FRENCH AUTHORITIES HAD INFORMED THE U.S. THAT THE ACB LETTER HAD BEEN IN ERROR AND THAT THE EQUIPMENT WAS INTENDED FOR USE IN THE SOVIET AUTOMOTIVE INDUSTRY.

10. ROOT THEN STATED THAT SINCE THE FRENCH DEL HAD NOTED IN THE COMMITTEE THAT THE FRENCH PRESSES WERE DIFFERENT FROM THE AMERICAN PRESS THE U.S. AUTHORITIES HAD OBTAINED NEW INFORMATION FROM THE U.S. FIRM. ROOT THEN BRIEFLY OUTLINED THE INFORMATION ON THE FOUR JOB ASSIGNMENTS WHICH HAD BEEN CONTAINED IN THE FIRST PARAGRAPH OF THE U.S. STATEMENT OUTLINED PARA 2, STATE 97974, NOTING THAT THE CYRIL BATH HAD RECEIVED THE ORDER FOR A PRESS COVERED BY ONE OF THE WORK ASSIGNMENTS WHILE THE PRESSES APPARENTLY BEING PROVIDED BY THE FRENCH FIRM WERE COVERED BY THE OTHER THREE JOB ASSIGNMENTS. ROOT NOTED THAT THE AMERICAN AUTHORITIES WOULD LIKE TO KNOW WHETHER THE FRENCH PRESSES BEING CONFIDENTIAL

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SUPPLIED ARE IN FACT IN RESPONSE TO THE OTHER THREE JOB ASSIGNMENTS AND TO HAVE ADDITIONAL TECHNICAL INFORMATION TO ALLOW A MORE THOROUGH COMPARISON OF THE CAPABILITIES OF FRENCH AND AMERICAN PRESSES.

11. ROOT NOTED THAT THE U.S. FIRM IS THREATENING TO SUE THE U.S. GOVERNMENT FOR DENIAL OF ITS EXPORT IF UNLESS IT IS SHOWN THAT THERE IS NO FOREIGN AVAILABILITY. HE NOTED THAT UNDER U.S. LAW EXCEPT IN UNUSUAL CIRCUMSTANCES, EXPORT CONTROLS ARE NOT TO BE IMPOSED ON ITEMS AVAILABLE FROM SOURCES OUTSIDE THE U.S. IN SIGNIFICANT QUANTITIES. HE SAID THAT HE WAS SURE THAT BOTH U.S. AND FRENCH GOVERNMENTS WOULD LIKE TO AVOID THE PUBLICITY WHICH MIGHT RESULT FROM COURT ACTION ON THIS CASE IN THE U.S. ROOT REITERATED THAT THE U.S. WOULD APPRECIATE FRENCH COOPERATION IN FURNISHING US WITH DOCUMENTATION ON THE FRENCH PRESSES TO SUPPORT THE FRENCH STATEMENTS THAT THESE PRESSES ARE UNEMBARGOED.

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 DODE-00 NSAE-00 ICA-11
TRSE-00 SOE-02 DOE-15 CIAE-00 COME-00 /049 W
-----100339 282344Z /73

P 282304Z APR 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC PRIORITY 0862

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12. FRENCH DEL RESPONDED THAT HIS INSTRUCTIONS WERE THE SAME AS THOSE OF THE FORMER FRENCH DEL ON THIS CASE, NAMELY, THAT BECAUSE THE FRENCH PRESSES ARE UNEMBARGOED AND ARE THEREFORE NOT IN AN EXCEPTION CASE BEFORE THE COMMITTEE, THERE IS NO REASON FOR THE FRENCH GOVERNMENT TO PROVIDE BROCHURES OR TECHNICAL SPECIFICATIONS ON THOSE PRESSES. HE REITERATED THAT THE FRENCH GOVERNMENT HAD ALREADY EXPLAINED THAT THE FRENCH PRESSES DID NOT HAVE SEVERAL DEVICES WHICH MADE THE AMERICAN PRESSES SPECIFICALLY INTENDED FOR USE IN THE AERONAUTICAL INDUSTRY. HE ADDED THAT THE FRENCH GOVERNMENT HAD NOT YET COMPLETED ITS STUDY OF THE TECHNICAL STATEMENT MADE BY THE U.S. AT THE APRIL 18 MEETING.

13. TECHNICAL ADVISER LEGER EXPANDED ON THESE REMARKS AND REPEATED THE REASONS WHY THE FRENCH GOVERNMENT BELIEVES THAT THE FRENCH PRESSES ARE DIFFERENT FROM THE U.S. PRESS WHICH HAD BEEN STATED BY THE FRENCH DEL IN THE MARCH 22 MEETING (PARA 3, PARIS 10111). DURING HIS DESCRIPTION HE REFERRED (PERHAPS INADVERTENTLY) TO THE FRENCH PRESSES AS "BRIDGE-TYPE." THE FRENCH GOVERNMENT HAS NOT RESPONDED TO THE USDEL APRIL

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18 QUESTION ON WHETHER THE FRENCH PRESSES ARE "HYDRAULIC BRIDGE TYPE" AND, IF USDEL IS NOT MISTAKEN, THE FRENCH HAVE NOT PREVIOUSLY REFERRED TO THIS TYPE OF PRESS IN CONNECTION WITH THIS CASE.

14. USDEL NOTED THAT IN ITS STATEMENTS ABOUT ITS INTENDED EXPORT THE FRENCH GOVERNMENT SOMETIMES USED TERM "PRESS" AND AT OTHER TIMES "PRESSES" AND ASKED FOR CLARIFICATION ON THE NUMBER INCLUDED. LEGER RESPONDED THAT WHILE THERE WERE SEVERAL INDIVIDUAL PIECES OF EQUIPMENT, THEY ALL HAVE THE SAME TECHNICAL CHARACTERISTICS.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: STRATEGIC TRADE CONTROLS, EXPORT LICENSES
Control Number: n/a
Copy: SINGLE
Draft Date: 28 apr 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978PARIS13973
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: X1
Errors: N/A
Expiration:
Film Number: D780183-0093
Format: TEL
From: PARIS USOECD
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t1978045/aaaaadih.tel
Line Count: 292
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: de5688ac-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 PARIS 12712
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 18 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2945590
Secure: OPEN
Status: NATIVE
Subject: U.S. STRETCH FORM PRESS TO THE USSR - IL 1081 (CYRIL BATH CASE)
TAGS: ESTC, US, UR, FR, COCOM
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/de5688ac-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014